



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 8682-98
9 July 1999

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 July 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy Reserve at age 18 on 20 January 1943 for two years, or for the duration of the war. However, on 22 March 1943 you voluntarily enlisted in the Navy for a period six years as a seaman second class.

The record reflects that you were advanced to seaman first class and served without incident for more than 16 months. However, during the seven month period from May to December 1944 you were convicted by three summary courts-martial of three periods of absence over leave totalling about 28 days.

The medical record reflects that on 13 July 1945 you were admitted to a naval hospital for observation of "fainting spells." On 7 August 1945 you were convicted by a deck court of an offense for which you had received a traffic citation.

On 25 October 1945, you were convicted by a general court-martial of an eight day period of absence without leave and were sentenced to confinement for 12 months, total forfeitures, reduction in rank to apprentice seaman, and a bad conduct discharge. The record reflects that during the trial you testified that you became an absentee after hearing that your wife had been unfaithful. When you found out that she had been unfaithful, you surrendered to military authorities at the naval hospital where you were a patient.

On 13 December 1945, while in confinement, you were admitted to a naval hospital after striking your forehead on the deck during a "fainting spell." A medical summary prepared by a board of medical survey stated that you had been under observation and treatment from 13 July to 15 October 1945. You appeared before a board of medical survey on 16 October 1945. You were diagnosed with a personality disorder and recommended for discharge. The medical board summary stated that during the hospitalization you had numerous attacks of nocturnal epilepsy. The board found that you were a tense, anxious, and emotionally unstable individual, suffering from epileptiform seizures. However, no psychotic manifestations were present and you were considered competent and responsible for your actions. The diagnosis was changed to epilepsy. On 6 March 1946 the board found you unfit for further service and recommended that you be discharged. The Bureau of Medicine and Surgery approved the board's recommendation on 21 March 1946.

On 3 April 1946, the acting Secretary of the Navy remitted the unexecuted portion of the sentence relating to confinement and directed that the bad conduct discharge be executed. You received the bad conduct discharge on 16 April 1946.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, medical condition, good post-service conduct, training certificates, letters documenting your unsuccessful run for the Alaska State senate, and the fact that it has been 53 years since you were discharged. The Board also noted your contention that the absence which led to your general court-martial conviction resulted from a phone call telling you that your wife had left with another man and checked into a hotel. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your convictions by three summary courts-martial, a deck court, and a general court-martial, all during a period of wartime. It appeared to the Board that your contention is consistent with your testimony at the court-martial, which apparently did not convince the court that the period of UA was justified. The Board noted that part of the sentence to

confinement was remitted after five months because of your medical condition. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. The Board believed you were guilty of too much misconduct during a period of wartime and concluded the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director